

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

**FILE:** B-220591 **DATE:** December 20, 1985  
**MATTER OF:** Chesapeake and Potomac Telephone Company

## DIGEST:

Where specifications require that duct be cleaned, bid that states price is based on the ducts being cleared is ambiguous and should be rejected as nonresponsive.

The Chesapeake and Potomac Telephone Company (C&P) protests the rejection of its bid under invitation for bids (IFB) No. DAMD17-85-B0041, issued by the Department of the Army for installation of an underground telephone cable system at Fort Detrick, Maryland. C&P protests the Army's rejection of its low bid as nonresponsive. We deny the protest.

C&P's bid was initially rejected because it failed to acknowledge amendment No. 0001 to the IFB. This amendment required the removal of some existing cable. C&P contends that the amendment was not material and therefore its failure to acknowledge the amendment should be waived as a minor informality.

In its report to our Office concerning the protest, the Army has taken the position that C&P's bid was nonresponsive not only for its failure to acknowledge the amendment, but also because C&P qualified its bid by stating its price "is based on the ducts being cleared." The IFB specifications in section 3.8.18 instructed that: "Prior to pulling in the above-mentioned underground cable, rod and clean the duct specified for use in accordance with drawing. . . ." It is clear that the contractor is required to clear the duct before installing the underground telephone cable.

C&P argues that the language it used merely documented information provided to C&P during the site inspection by the Army representative, and was intended to clarify C&P's understanding of bid requirements and not to impose additional conditions on the services requested. It is not clear what C&P means by this argument. C&P may be contending that the language was meant as an acknowledgment of the work encompassed in amendment No. 0001 to the IFB. The


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language C&P used, however, is far from a clear statement of acknowledgment. While it is indeed possible that C&P was only intending to acknowledge the amendment, it is also possible that the broad language used was intended to deal with more than the amendment itself. This is so because the specifications required clearing more than 5000 feet of duct, while the amendment dealt only with removing existing cable from a 750 foot length of duct. Also, clearing the duct includes more tasks than removing existing cable, e.g., removing obstructions of the duct caused by the infiltration of dirt and pushing a rod through the duct. Moreover, C&P itself does not explicitly indicate that it was aware of the exact contents of amendment 0001 when it submitted its bid. Thus, we are not inclined to read C&P's language as simply acknowledging the amendment. Consequently, we must consider what other effect C&P's language had on its bid.

To be responsive, a bid as submitted must represent an unequivocal offer to meet the IFB specifications. Sabre-liner Corp., 64 Comp. Gen. 325 (1985), 85-1 C.P.D. ¶ 280. If the bid is subject to more than one reasonable interpretation, under one of which the bid is nonresponsive, the bid must be rejected as nonresponsive. Solenergy Corp., B-208111.2, Oct. 8, 1982, 82-2 C.P.D. ¶ 318.

It is apparent that the duct clearing requirement is a material item of work and that the extent of clearing needed is a contingency item for which a contractor is supposed to assume the risk under the contract. In this case, although C&P's statement in the bid schedule could mean that C&P will clear the ducts and the bid price included this work, it could also mean that the ducts must be cleared before C&P begins work and that the bid price does not include clearing the ducts. This would remove a potential contingency from C&P's bid price which other bidders included in their bid prices. Under this interpretation, C&P's bid clearly would be nonresponsive. Since C&P's bid is subject to two interpretations, one of which would make the bid nonresponsive, we concur that its bid was nonresponsive.

In light of our conclusion that the statement in C&P's bid makes the bid nonresponsive, we need not consider C&P's failure to acknowledge amendment No. 0001. The protest is denied.

  
for Harry R. Van Cleave  
General Counsel